RECENT IMPORTANT DECISIONS

CRIMINAL LAW—DIRECTED VERDICT OF ACQUITTAL—The accused was convicted of crime. Error was assigned upon the refusal of the court to direct a verdict of not guilty. *Held,* that a motion to direct a verdict of acquittal should never be entertained. *People* v. *Zurek* (Ill. 1917), 115 N. E. 644.

Inasmuch as the court also ruled that the verdict of guilty was not contrary to the evidence, that part of the decision touching upon the policy of directing a verdict of acquittal was probably not necessary to the decision. The point was, however, considered by the court of review and a definite policy of practice was laid down. The great weight of authority supports the doctrine that a court cannot instruct a jury in a criminal case to return a verdict of guilty. See 16 COL. L. REV. 594 and note to Ann. Cas. 1916A 1241. There are a few cases which uphold the opposite view. *Paxton* v. *State,* 114 Ark. 393, 170 S. W. 80, Ann. Cas. 1916A 1239; *People* v. *Worges,* 176 Mich. 685, 142 N. W. 1100; *Commonwealth* v. *Brown,* 28 Pa. Sup. Ct. 296. The Illinois court declared itself in favor of the orthodox rule, and apparently justified its policy of not allowing directed verdicts of acquittal on the ground that a verdict of acquittal should not be directed when a verdict of guilty could not be so directed,—the end sought apparently being a mutuality of remedy as between the state and the defendant. This conclusion, however, does not follow, for courts refuse to direct a verdict of guilty because such action is held to interfere with the accused's right to a jury trial, while there is no such objection to ordering a verdict of acquittal. Further, a judge can set aside a verdict of guilty when it is contrary to the evidence, and can continue to do so indefinitely, even though he cannot set aside a verdict of acquittal, and it is submitted that a trial court should have the power and duty to direct a verdict of not guilty in the first instance rather than to allow a series of new trials. The theory of mutuality breaks down, even in Illinois, so far as respects the power to set aside a verdict, and a corresponding inequality as regards the power to direct a verdict is certainly not unreasonable or anomalous. This view is supported by the authorities. *State* v. *Trove,* 1 Ind. App. 553, 27 N. E. 878; *State* v. *Brown,* 72 N. J. L. 354, 60 Atl. 1117; *Murphy* v. *State,* 124 Wis. 635, 102 N. W. 1087; *People* v. *Ledwon,* 153 N. Y. 10, 46 N. E. 1046.

DIVORCE—CUSTODY OF CHILDREN IN CASE OF DENIAL OF DIVORCE.—The plaintiff sued for divorce from her husband on the ground of cruelty. The divorce was denied; but as the parties were not living together, the court gave the plaintiff custody of the three children. The Divorce Statute provided that although decree for separation * * * be not made the court may make decree for the support of the wife and children. *Held,* that under this statute the court, though denying a divorce to the wife, may award her the custody of the children. *Jacobs* v. *Jacobs* (Minn. 1917), 161 N. W. 525.